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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/030,222

04/01/2002

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EXAMINER

RHEE, JANE J

ART UNIT

PAPER NUMBER

1745

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/030,222

Applicant(s)

KOHLER ET AL.

Examiner

Jane Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6, 8-11 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6, 8-11 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/18/2005 has been entered.

Rejections Withdrawn

2. The 35 U.S.C. 103(a) rejection of claims 1-2,5-8,10-11,21-23 over Maxson in view of Biby et al. has been withdrawn due to applicant's amendment filed on 7/18/2005.

3. The 35 U.S.C. 103(a) rejection of claims 1,3-4,9 over Maxson in view of Boehmer et al. has been withdrawn due to applicant's amendment filed on 7/18/2005.

4. The 35 U.S.C. 103(a) rejection of claims 7,8 over Maxson in view Boehmer et al. and in further view of applicant's admitted prior art has been withdrawn due to applicant's amendment filed on 7/18/2005.

New Rejection

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-6,8-11,21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beauquin in view of Boehmer et al.

As to claims 3, Beauquin discloses a pipe jacket comprising a volume defined by the space contained between a first enclosure interior to a second enclosure is filled with insulation material (figure 1 number 24). As to claim 2, Beauquin discloses that the volume is an annular spaced defined by the outside of a pipe placed in another pipe (figure 1 number 26 and 10). Beauquin fail to disclose solubilizing the vegetable foam particles by an aqueous fluid and free pulling the first enclosure. Beauquin fail to disclose that between a first enclosure and a second enclosure the space is filled with vegetable foam particles. Beauquin fail to disclose that the average particle size is below 5mm. Beauquin fail to disclose that the vegetable foam comprises at least flour, plasticizer, another additive, a water content below 10% and preferable below 5%. Beauquin fail to disclose that the space further comprises at least one of the following insulants, silicate foam particles, aerogel foam particles, or dry powders.

Boehmer et al. teaches expanded vegetable foam material is solublized by an aqueous fluid (col. 1 lines 49) for the purpose of being able to be placed on the subsurface layer of a landfill or to be disposed in a wastewater treatment system having facilities for biological or other types of degradative treatment (col. 2 lines 50-55).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Maxson with expanded vegetable

foam material that is solublized by an aqueous fluid in order to be able to be placed on the subsurface layer of a landfill or to be disposed in a wastewater treatment system having facilities for biological or other types of degradative treatment (col. 2 lines 50-55) as taught by Boehmer et al.

Boehmer et al. discloses that vegetable foam comprises at least flour (col. 3 lines 50-52), plasticizer (col. 4 line 14), another additive (col. 3 lines 13-15), a water content below 10% (col. 8 line 15) as desired by the applicant, therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide that the aqueous fluid that the vegetable foam is solubized by is about 1N soda and that the vegetable foam have a thermal conductivity ranging between 0.03 and 0.06W/mK, since it has been held that discovering optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d.

Boehmer et al. teaches that the vegetable foam comprises at least flour (col. 4 line 47), plasticizer (col. 4 line 48), another additive (col. 4 line 49), a water content below 10% preferably below 5% (col. 4 line 50), and silicate particles (col. 6 line 53) for the purpose of being able to be disposed in a wastewater treatment system having facilities for biological or other types of degradative treatment (col. 2 lines 50-55). Boehmer et al. teaches that the average particle size is below 5mm (col. 5 lines 8-9) for the purpose of giving the foam structure and for being inexpensive and readily available (col. 5 lines 12-14).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Beauquin with that the vegetable

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foam comprises at least flour, plasticizer, another additive, a water content below 10% and preferable below 5%, and silicate particles in order to be disposed in a wastewater treatment system having facilities for biological or other types of degradative treatment (col. 2 lines 50-55) as taught by Boehmer et al.

Also, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Beauquin with the average particle size that is below 5mm in order to giving the foam structure and for being inexpensive and readily available (col. 5 lines 12-14) as taught by Boehmer et al.

Response to Arguments

6. Applicant's arguments with respect to claims 2-6,8-11,21-23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

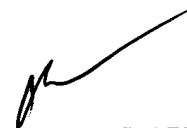
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee
September 2, 2005



PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER